

JONES VARGAS
3773 Howard Hughes Parkway - Third Floor South
Las Vegas, Nevada 89169
Tel: (702) 862-3300 Fax: (702) 737-7705

GARY R. GOODHEART, ESQ.
Nevada Bar No. 1203
AMANDA J. COWLEY, ESQ.
Nevada Bar No. 4578
BRADLEY SCOTT SCHRAGER, ESQ.
Nevada Bar No. 10217
JONES VARGAS
3773 Howard Hughes Parkway
Third Floor South
Las Vegas, Nevada 89169
Telephone: (702) 862-3300
Facsimile: (702) 737-3305
grg@jonesvargas.com
acowley@jonesvargas.com
bschrager@jonesvargas.com
Attorneys for Non-Party
Deborah A. Klar

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DENNIS MONTGOMERY, and the
MONTGOMERY FAMILY TRUST,

3:06-CV-00056-PMP-VPC
Base File

3:06-CV-00145-PMP-VPC

v.

**MOTION FOR RULING ON
EVIDENTIARY OBJECTIONS**

ETREPPID TECHNOLOGIES, L.L.C.,
WARREN TREPP, and the UNITED STATES
DEPARTMENT OF DEFENSE,

AND ALL RELATED MATTERS.

Deborah A. Klar ("Ms. Klar"), by and through counsel, Gary R. Goodheart, Esq., of Jones Vargas, submits this Motion requesting that the Court rule on each of the evidentiary objections interposed by Dennis Montgomery in his Opposition to the Motion for Sanctions filed by non-party Michael Flynn, Esq. Doc. 601 at 23:13-54:27.¹ ("Montgomery Evidentiary Objections") There have been no rulings to date on the specific Montgomery Evidentiary Objections.

¹ Pursuant to the Order of Magistrate Judge Cooke of January 23, 2008 [Doc. 419 at 3], the parties in the Trade Secret Litigation were specifically directed that "Documents styled as 'objections to evidence' are not allowed, and counsel are cautioned not to file such papers in the future. To the extent counsel object to evidence, those objections may be included in points and authorities, subject to the page limitations prescribed by Local Rule 7-4." Thereupon, specific objections to evidence were made in the points and authorities of Mr. Montgomery's Opposition to the Motion for Sanctions filed by non-party Michael Flynn, Esq., Doc. 601.

1 An appellate court "can review only rulings made by the trial court on questions brought to
2 its attention and passed upon by it." Hecht v. Alfaro, 10 F.2d 464, 466 (9th Cir. 1926); see also
3 Holliday v. Great Atlantic & Pacific Tea Co., 256 F.2d 297, 302 (8th Cir. 1958)("Before a
4 reviewing court can properly say that trial court was in error, trial court must have been given an
5 opportunity to pass upon question.").

6 Absent explicit rulings by the Court on the Montgomery Evidentiary Objections, those
7 objections may be deemed waived. To avoid such a result, Ms. Klar files this Motion to ensure that
8 the Montgomery Evidentiary Objections are preserved for appellate purposes.

9 DATED this 1st day of July, 2009.

10 **JONES VARGAS**

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13 By: /s Gary R. Goodheart
14 GARY R. GOODHEART, ESQ.
15 Nevada Bar No. 1203
16 AMANDA J. COWLEY, ESQ.
17 Nevada Bar No. 4578
18 BRADLEY SCOTT SCHRAGER, ESQ.
19 Nevada Bar No. 10217
20 3773 Howard Hughes Parkway
21 Third Floor South
22 Las Vegas, Nevada 89169
23 Telephone: (702) 862-3300
24 Facsimile: (702) 737-0069
25 ATTORNEYS FOR DEBORAH KLAR
26
27
28

JONES VARGAS
3773 Howard Hughes Parkway - Third Floor South
Las Vegas, Nevada 89169
Tel: (702) 862-3300 Fax: (702) 737-7705

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Tel: (702) 862-3300 Fax: (702) 737-7705

CERTIFICATE OF SERVICE

Pursuant to Fed.R.Civ.P.5(b), and Section IV of District of Nevada Electronic Filing Procedures, I certify that I am an employee of JONES VARGAS, and that the foregoing document was served via electronic service on July 1, 2009 to the following parties:

Gary R. Goodheart grg@jonesvargas.com, brs@jonesvargas.com, bschrager@jonesvargas.com, lross@jonesvargas.com

Gregory W. Addington greg.addington@usdoj.gov, joanie.silvershield@usdoj.gov, judy.farmer@usdoj.gov

J. Stephen Peek speak@hollandhart.com, clein@hollandhart.com, dbergsing@hollandhart.com, dsagert@hollandhart.com, intaketeam@hollandhart.com, mdalluge@hollandhart.com

Jerry M Snyder jsnyder@hollandhart.com, Intaketeam@hollandhart.com, btoriyama@hollandhart.com, carnold@hollandhart.com, ckelb@hollandhart.com, cpulsipher@hollandhart.com

John J Frankovich jfrankovich@mcdonaldcarano.com

Leigh T Goddard lgoddard@mcdonaldcarano.com, dsmith-power@mcdonaldcarano.com, pmiller@mcdonaldcarano.com

Mark H. Gunderson kgunderson@gundersonlaw.com

Richard Segerblom rsegerblom@lvcoxmail.com, tsegerblom@gmail.com

Ronald J Logar Zachary@renofamilylaw.com, Eric@renofamilylaw.com

Bridget Robb Peck bpeck@lrlaw.com, jmoulia@lrlaw.com

Debbie Leonard dshosteck@mcdonaldcarano.com, pmiller@mcdonaldcarano.com

Carla DiMare cdimare@worldnet.att.net

Carlotta P Wells carlotta.wells@usdoj.gov

Michael James Flynn mjfbb@msn.com

Adam G Lang alang@hollandhart.com, btoriyama@hollandhart.com, eford@hollandhart.com, intaketeam@hollandhart.com

Brian M Heberlig bheberlig@steptoe.com

Robert A Ayers rayers@steptoe.com

JONES VARGAS
3773 Howard Hughes Parkway - Third Floor South
Las Vegas, Nevada 89169
Tel: (702) 862-3300 Fax: (702) 737-7705

1 Reid H Weingarten rweingarten@steptoe.com

2 Ryan M. Lapine rlapine@linerlaw.com

3 Deborah A. Klar DKLAR@LINERLAW.COM, dswinson@linerlaw.com,
4 lwerderitch@linerlaw.com, ntorrecillas@linerlaw.com, stoy@linerlaw.com

5 Raphael O. Gomez raphael.gomez@usdoj.gov

6 Tuneen E. Chisolm tchisolm@linerlaw.com, cdraper@linerlaw.com

7 Shane M Biornstad sbiornstad@hollandhart.com, ckelb@hollandhart.com

8 Robert E Rohde brohde@rohdelaw.com, brohde@rohdelaw.com, jertel@rohdelaw.com

9 Gregory G. Schwartz gschwartz@rohdelaw.com

10 Ellyn S. Garofalo egarofalo@linerlaw.com, mwilcox@linerlaw.com

11 Richard J Mooney rmooney@linerlaw.com, pbransten@linerlaw.com,
12 tyasmoothrlarsen@linerlaw.com

13 Heather Ristau heather.ristau@bingham.com

14 Marshall B. Grossman marshall.grossman@bingham.com

15 Roland Tellis roland.tellis@bingham.com

16 Randall J. Sunshine rsunshine@linerlaw.com, gtanzini@linerlaw.com

17 Ronald Logar zachary@logarpulver.com

18 **3:06-cv-56 Notice has been delivered by other means to:**

19
20
21 Opspring, LLC
22 600 106th Avenue NE, Ste 210
23 Bellevue, WA 98004-5045

24 Edra Blixseth
25 42-765 Dunes View Rd
26 Rancho Mirage, CA 92270-4311

27 /s/ Barbara Seed
28 An employee of Jones Vargas